

V. REMARKS

RESPONSE TO REJECTIONS

35 U.S.C. 103

- **The Examiner's Position:**

The Examiner has rejected claims 1-40 under 35 U.S.C. 103 as being obvious over the primary reference to Clark (6,351,738 B1) in view of the secondary reference to Feidelson, et al. (6,345,261) (hereinafter, "Feidelson") and further in view of McClelland, et al. (5,689,650) (hereinafter, "McClelland").

In regard of claims 1, 6, 8, and 30, the Examiner sees in the Clark disclosure the claimed method for supporting security-trade financing for a company seeking capital (Fig 4/416; col. 4, lines 5-14 and col. 6, lines 6-7), maintaining an inventory data base including data identifying products (col. 4, lines 21-32), and determining a cash/trade-credit blend comprising a cash portion and a trade-credit portion (Fig 4/414, col. 5, lines 6-14; col. 6, lines 3-5; col. 11, line 40 - col. 12, line 46, and col. 12, line 50-56) in exchange for a proportional quantity of the products in inventory as desired by the company (Fig 4/410; Fig 5; col. 5, lines 21-50; col. 8, line 57- col. 10, line 54). The Examiner also sees in Clark volume rebates (Fig 5) and capital financing (Fig 4).

The Examiner admits that Clark fails to teach receiving securities from the company in exchange for the trade-credit portion of the cash/trade-credit blend (col. 6, lines 8-9), although allegedly allows equity participants to share in an IPO. In addition the Examiner sees the secondary reference to Feidelson compensating for the deficiency

in Clark (Abstract; Fig 1; Fig 2; Fig 3; col. 2 line 6 - col. 4 line 20) and the other secondary reference to McClelland disclosing instant cash/credit blends (col. 6, line 36 - col. 8, line 4). In the Examiner's opinion, it would have been obvious to one skilled in the art at the time of the invention to combine Clark in view of Feidelson to find the same instant method contending that the motivation to combine is derived from the allegedly user-friendly investment based customer credit program of Feidelson (col. 2, lines 1-3) and the risk managed portfolio of McClelland (col. 4, lines 1-3).

In regard to claim 2, the Examiner sees the reference not specifically teaching the further steps of receiving deficient assets from a deficient asset company but allegedly transmitting trade credits to the deficient asset company (Fig 4/410) such that it would have been obvious to one skilled in the art at the time of the invention to combine Clark in view of Feidelson and further in view of McClelland to pay for the deficient assets of a deficient company and store data identifying the deficient assets in the inventory data base. In the opinion of the Examiner, the motivation is again to combine the alleged methods of Feidelson's alleged user friendly investment and McClelland's allocation of business interests to participants in a risk managed portfolio. More particularly, the Examiner admits that Clark fails to teach a specific cash-credit ratio, but alleges that the shortcoming is remedied by the secondary references to Feidelson (Abstract; Fig 1; Fig 2; Fig 3; col. 2, line 6 - col. 4, line 20) and McClelland (col. 6, line 36 - col. 8, line 4). In the Examiner's opinion, it would have been obvious to one skilled in the art at the time of the invention to combine Clark in view of Feidelson to pay for deficient assets of a deficient company and storing data on deficient assets in the inventory base of the invention.

Regarding claim 3, 10-12, 33-34, the Examiner contends that Clark also discloses the method of Claim 1, 10, and 33 wherein the products identified in to inventory data base are categorized (col. 9, line 49; col. 10, lines 4-7 ;or Fig 4/414/418).

Regarding claims 4, 9, 13-14, 21-25, the Examiner alleges Clark's method as recited in Claim 1, 10, 18, 21 discloses the products selection from the group consisting of goods and services(col. 9, line 49; col. 10, lines 4-7; col. 11, line 36; col. 11, lines 40-61).

Regarding claims 5, 27-28, 39-40, the Examiner alleges that Clark discloses a method as recited in Claim 1, 18, 30 wherein the cash/trade-credit blend is represented by a cash-credit ratio(col. 10, lines 34-36). While the Examiner admits that Clark fails to teach a specific cash-credit ratio, Feidelson allegedly does (Abstract; Fig 1; Fig 2; Fig 3; col. 2, line 6-col. 4, line 20). Moreover the Examiner contends that McClelland teaches cash/credit blends (col. 6, line 36-col. 8, line 4). The Examiner concludes that the cited combination of references renders the claimed method obvious to one skilled into art at to time of to invention motivated to combine is to teach a user-friendly investment based customer credit program as enunciated by Feidelson (col. 2 lines 1-3) and a method for allocating business interests to participants in a risk managed portfolio as enunciated by McClelland (col. 4 lines 1-3).

Regarding claims 7, 16-17, 19-20, 26, 29, 31, 37-38, Clark allegedly discloses a method as recited in Claims 6, 18 ,19, 30, wherein the desired plan cost basis is based on valuations of the company (col. 10, lines 43-45; Fig 4/416).

Regarding claims 8, 32, 35-36, Clark allegedly teaches a method as recited in Claim 6, 31, 34 wherein the valuations include an agreed-to valuation and a desired valuation (col. 10, lines 43-45; and Fig 4/416).

The Examiner finally rejects the Applicant's arguments with respect to claims 1-40 as submitted in the previous response to the first action. Pursuant to Applicant's response the Examiner contends that Clark's method supports security-trade financing for a company seeking capital by providing discount capital financing for the purchase of technology and machinery to businesses (Abstract; Fig 4). Moreover, the Examiner postulates that discount financing is effectively a cash discount on the loan which is a cash component in the blend cited; seeing in Clark, the discount financing of the business entity (HBE) company creating a cash component in the financing of the operation. And Feidelson allegedly teaches a customer loyalty investment program whereby purchase rebates to customers are used to provide the customer with merchant securities (Abstract; Figs 1-4). This customer loyalty element is a trade credit component (rebate) in the operation of a business. Clark and Feidelson allegedly teach the financing methodology advanced by applicant in a business entity as a cash/trade credit blend where the trade credit is issued by the merchant.

- **Applicant's Response**

Applicant traverses the Examiner's reading of the instantly claimed invention as well as the cited prior art, regardless of whether taken alone or in combination. The cited references to Clark and Feidelson and McClelland neither disclose nor even remotely suggest the claimed method as presently amended.

To the contrary, Applicant asserts that the presently claimed system/method is completely novel and unobvious over the cited art. In the first instance, the present invention provides a trading company (TC) with support methodology to facilitate growth of certain companies needing capital that have a limited number of deficient assets. The method specifically is meant to serve the companies having growth potential but being handicapped by limited investment

resources or insufficient capitalization, to overcome this drawback and realize their business goals. In order to definitively describe the scope of this invention, amended Claim 1 is directed to the instant method for advantageously supporting security-trade financing by a trading company for a company having a limited number of deficient assets seeking capital or assets, comprising the steps of: a) a trading company (TC) maintaining an inventory data base comprising data for identifying suitable trade products as trade-credits; b) the TC determining upon valuation a cash/trade-credit blend for the purpose of providing financing to a capital seeking company (CSC) holding limited assets, wherein the cash/trade-credit blend comprises a cash portion and a trade-credit portion; c) the TC receiving securities from the CSC in exchange for the trade-credit portion of the cash/trade-credit blend; and d) the TC receiving at least a portion of the cash/trade-credit blend from the CSC in exchange for a proportional quantity of the products in the trading company's inventory that are desired by the CSC.

The Examiner is clearly engaging in prohibited hindsight interpretation/construction of Applicant's invention by attributing to Clark's disclosure (Abstract; and Fig 4) a method of supporting security-trade financing for a company seeking capital by providing discount capital financing for the purchase of technology and machinery to businesses.

The Examiner likens the cash component in the instant blend to Clark's cash discount on the loan in that the discount financing of the business entity (HBE) company creates a cash component in the financing of the operation. Feidelson's customer loyalty investment program providing the customer with merchant securities (Abstract; Figs 1-4) is in the Examiner's interpretation a trade credit component (rebate) in the operation of a business, believing that the combination of Clark and Feidelson suggests the combination of the cash and trade/barter financing methodology advanced by Applicant in a business entity as a cash/trade credit blend

where the trade credit is issued by the merchant. Clark is completely silent as to trading anything as credit; any discount is monetary achieved through the enhanced purchasing power of a wider association having a sufficiently large number of members of like professional or business activity.

Contrary to the Examiner's complex fitting of unrelated and non-analogous terms in the cited references, Applicant asserts that the combined art does not remotely suggest the advantageous method as claimed. Clark discloses a collective business system HBE including a plurality of participants engaged in a common field of business endeavor which system generates more purchasing power, advertisement and favorable terms by specially contracting common suppliers and other organizations. This common cause advantage enables the individually and presumably smaller participants to compete effectively with much larger corporate or similar entities or franchises in the same or similar industry or profession without sacrificing their individual independence. There is no mention of credit or trade from a trading company to obtain capital for growth by a company being limited deficient assets as presently claimed.

Moreover, the Examiner admits that Clark is completely silent as to the instant investment and assessment tool utilizing a cash/trade product credit blend or ratio. Quite to the contrary, none of the secondary references remedy the deficiency of the primary reference. For example, Feidelson discloses a scheme for an investment entity such as an investment fund where members invest their rebates obtained for purchases from merchants (col. 2, lines 6-39 and 43-46). The invested rebates and earnings from the invested rebates are shared by the fund members in the form of paper promises such as securities or shares allegedly commensurate to the rebates for individual members as well as further or other investments of the accumulated rebate-originated amounts. As a more specific example for this co-called customer loyalty

investment program, Feidelson describes an investment fund versions based on rebates received from on-line purchases by registering members using a computer; identifying member purchases made at the on-line merchant sites; receiving rebates from the merchants based on member purchases; investing the rebates in the fund; issuing shares to each member based on the rebates received from merchants as a result of purchases made by that member; for rebates received from public merchants, purchasing securities of each public merchant based on the amount of rebates received from that particular merchant; and for rebates received from private merchants, purchasing securities in the public merchants as a function of the fund's then existing portfolio. It is clear that this kind of investment vehicle does not even remotely resemble or suggest the instant method of a trading company's receiving securities or stocks from companies with deficient assets in return for cash or product investment for expanded capitalization to realize or facilitate growth potential.

Moreover, contrary to the Examiner's contention, McClelland's method of monitoring in network criteria of governmental institutions regarding CRA not even remotely discloses or suggests the instant investment method involving trading of assets or goods and services in a blend with cash or liquid funds. The secondary reference does not in the least compensate for the deficiency in Clark by its alleged use of assessment criteria for qualification or eligibility of individual or collective entities regarding loans and the use of a related database. According to the McClelland reference, investors share in such entities such as a portfolios, pools of assets or businesses through the so-called CRA network which calculates and weighs each entity's risk depending on governmental regulations and interpretation thereof. The alleged CRA eligibility criteria do not even remotely suggest the claimed investment mix, blend or ratio of cash and tradable goods and services based on valuations of real market conditions and value

(i.e. part of buyer's "valuation" of investment target) versus the nominal or publicly declared values or price (i.e., part of seller's assessments of deficient assets). Finally, the combined cited references are completely silent as to any investment determinative criteria based on any growth potential of companies with deficient assets seeking capital including tradable goods and services to facilitate their own growth. There is complete silence in the cited references as to using the claimed trade or barter exchange means by itself or in a blend of cash investment with trade credit for certain negotiated products or desirable trade products.

Finally, the participants' HBE operation in a common endeavor, profession or industry as described in Clark (col. 4) does not suggest the instant system which is not bound to any membership in a common field of industry, goods or services. In complete contrast to the cited prior art, the instant method is dedicated only to facilitating growth of any deficient assets company by a specially adjusted blend of credit in the form of trade and cash regardless of its field of activity.

It is submitted that the presently claimed method or system is unobvious and surprising over the cited art taken alone or in combination. Therefore, Applicant asserts that the rejection of the claims under 35 U.S.C. 103 is improper.

CONCLUSION

Applicant hereby requests withdrawal of the rejections of the claims as amended, which favorable action is solicited.

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